(14)

IN THE HIGH COURT OF JUDICATURE AT JABALPUR , M.P.

WRIT PETITION NO. 2064 OF 2000.

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA.

BETWEEN

PETITIONERS .. 1. TIKARAM, Kotwar, son of Motilal, aged about 57 years, Kotwar of village Gorkapar, P.C.NO.10, and President of the Kotwar Tehsil Sangh of Gunderdehi District DURG,M.P.

2. AJIT RAM KOTWAR, son of Ram Prasad, aged about 53 years, Kotwar of P.C. NO.34, of Tehsil Gunderdehi, District Durg, M.P. and Office bearers as Patron of the Kotwar Sangh of Tehsil Gunderdehi,of District Durg, M.P.

3. LIKHIN-LAL KOTWAR, Resident of village Sibdi, P.C. No.4, Tahsil Gunderdehi,

4. SHANKER LALKOTWAR, of P.C.NO.4, village - Sibdi ,Tehsil Gunderdehi.

5. LIKHAN DAS, Kotwar, of P.C.NO.43, of Village Siyanmara, Tehsil Gunderdehi,

6. MST.PARAMVATI(PREMVATI), Kotwar of village Pairi, P.C. NO.23, Tehsil Gunderdehi.

7. FAKIR SINGH,KOTWAR of village Khaloni, P.C. No.7 ,

8. RAM KUMAR KUTHRAIL , KOTWAR of village P.C.NO.36 of Tahsil Gunderdehi.

9. CHETU RAM , KOTWAR, of Joratarai, P.C.NO.34, Tehsil Gunderdehi.

10. LOMAN DAS KOTWAR of village Haldi, P.C. No.42, Tehsil Gunderdehi,

11. JETHU DAS KOTWAR , of village Biretara, P.C. NO.39, Tehsil Gunderdehi,

12. BINJWAR Kotwar of village Dongitarai, P.C.NO.34, Tehsil Gunderdehi.

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Certified Copy of Application
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15-3-2000

13. GOVIND RAM KOTWAR of village Pangri, P.C. No.9, Tehsil Gunderdehi ,

14. GOR SINGH KOTWAR of village Kilepar, P.C.NO.28, of Tehsil Gunderdehi.

15. PRAHLAD SINGH KOTWAR, of village Deori, (D) P.C.NO.1, Tehsil Gunderdehi.

16. DUMAR DAS KOTWAR of village Deogahan, P.C. NO.13, Tehsil Gunderdehi.

17. TULARAM KOTWAR of village Kasonda plus Haransinghi, P.C. No. 29, Tehsil Gunderdehi

18. YOGESHWAR PRASAD KOTWAR of village Parsahi P.C.NO.32, Tehsil Gunderdehi,

19. DEBU RAM KOTWAR of village Sirrabhata, P.C. No.40, Tehsil Gunderdehi,

20. RAM SINGH KOTWAR, of village Daganiya, P.C NO.12, Tehsil Gunderdehi,

21. KEJRAM KOTWAR of village Sirri, P.C.NO.9, Tehsil Gunderdehi,

22. PARGANIA, KOTWAR of village Matiya, P.C.NO 14, Tehsil Gunderdehi,

23. RAM DEO KOTWAR of village Kandul, P.C.NO.15, Tehsil Gunderdehi.

24. MUNNALAL KOTWAR of village Bhilai, P.C.No. Tehsil Gunderdehi,

25. GAJJURAM Kotwar of village Dharmi, P.C.No.12, Tehsil Gunderdehi,

26. MST. SAROJANI BAI KOTWAR of village Khapri, P.C.NO.16, Tehsil Gunderdehi,

27. FATTELAL KOTWAR of village Khapri,(B),P.C. No.29, Tehsil Gunderdehi.

28. MOLURAM KOTWAR, of village Dhangaon, P.C.No. 19, Tehsil Gunderdehi,

29. SADHU RAM, KOTWAR, of village Kandul, P.C. No.15, Tehsil Gunderdehi,

30. BHAGWAT PRASAD Kotwar of village Rahud, P.C. No.30, Tehsil Gunderdehi.

31. BARATIYARAM KOTWAR OF VILLAGE Guraida, P.C. No.12, Tehsil Gunderdehi,

32. LIMBAN BAI KOTWAR OF village Chichalgondi, P.C.No.16, Tehsil Gunderdehi.

33. GANDHIRAM KOTWAR of village Khairbana,
P.C. No.14, Tehsil Gunderdehi,

34. YUVRAJ SINGH, KOTWAR of village Parastarai,
P.C. No.17, Tehsil Gunderdehi ,

35. BHIKAM DAS KOTWAR OF village Arjunda,
P.C. NO.14, Tehsil Gunderdehi.

36. PARMESHWAR DAS KOTWAR of village Arjunda,
P.C. NO.14, Tehsil Gunderdehi,
All District Durg, M.P.

VERSUS

RESPONDENTS .. 1. THE STATE OF M.P. THROUGH SECRETARY,
in the Department of Revenue ,
Government of M.P. BHOPAL, M.P.

2. COLLECTOR OF DISTRICT DURG,
District Durg, M.P.

XI-EC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(59)

आदेश पत्रक

मामला क्रमांक W.P. No. 2064/2000 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

3.5.2001 :

Mr. Ashok Das Vashnav for the petitioners.

None for the respondent - State.

On 28.4.2001 Mr.Ranbir Singh,learned Government Advocate prayed for a short adjournment. Prayer was allowed. Return has been filed.

These 36 petitioners are Kotwards of district Durg. They were granted plots of land sometimes in the year 1950 and they are in possession of their respective plots of lands given to them. Thereafter,representations have been made to the competent authority to grant Bhoomi-swami rights. Certain assurances were given to them. In fact, it is contended that even the Minister had given the assurance to them that Bhuomiswami rights would be granted. However, till date no such right has been granted. Hence this petition.

In pra 4 of the return filed on behalf of the State it is contended that inspite of the clear cut instructions of the State Government in regard to grant of Bhoomiswami rights in some of the sub divisions such rights have been granted in favour of the kotwars. It is further stated ~~xxx~~ in the said return which is as follows :-

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[पीछे देखिये

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

" Such declaration of rights was evidently violative of the provisions of section 45 (2) of the Abolition of Proprietory rights,Act,1950 and also contrary to the instructions issued by the State Government. At the same time the representations from the Kotwars and their unions kept on flowing with the State government. The State government The State government has initiated appropriate action against the concerned revenue authorities which was instrumental in getting the Bhoomis rights declared in favour of the kotwars".

Mr.Das learned counsel for the petitioner states in fact that as late as in December,97,Bhoomiswami rights were granted in favour of kotwars of the district Bilaspur vide annexure P-3. The Commissioner ordered that names of these kotwars be recorded in relevant revenue records. This order was passed sometime in January,1988. It is further contended that same rights have been granted in respect of kotwars of districts Sarguja and Raigarh. It is therefore submitted that no discrimination can be meted-out to the present petitioners inasmuch as they are similarly situated with other kotwars of district Bilaspur,Sarguja and Raigarh. It is further submitted by Mr.Das that in fact no action has been initiated against any person for grant of Bhoomiswami rights in respect of other Kotwars though such averment has been made in the return filed by the State.

It appears to me that since the petitioners were given plots of lands in 1950 and since them they have been serving as kotwars for all these years,even on humanitarian ground, this prayer should be allowed. It would also be equitable that writ petitioners are granted Bhoomiswami rights;as the same has been done in respect

XI-EC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(60)

आदेश पत्रक

मामला क्रमांक ..3.. सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	of their counterparts in districts of Raigarh and Bilaspur. In the result, this petition is disposed of with a direction that competent authority shall grant Bhoomi-swami rights in respect of the writ petitioners. This order shall be carried-out within one month from the date of receipt of this order. Sd/- Chief Justice	